The importance of the subject and the lack of time of practicing lawyers to examine the working of title registration in other countries, makes this book most timely. If it shall stir up popular interest and promote the discussion of the problems involved, it will have been of great value to the public at large and to the legal profession in particular.

CONFLICT OF LAWS, OR PRIVATE INTERNATIONAL LAW.—By Raleigh C. Minor, Professor of Law in the University of Virginia. Boston. Little, Brown & Co., 1901. pp. lii, 575.

Professor Minor's treatise has indisputable merits. It is based on an unusually thorough examination and analysis of the American decisions. It is well arranged, and it is clearly and concisely written. There is a refreshing absence of "straddle": the author does not attempt, as do so many writers, to bring conflicting theories into apparent harmony by devising a formula which contains everything and says nothing. He distinguishes, compares, makes his choice and gives his reasons for making it.

The author is at his best in his analysis of the various problems. In his treatment of contracts, for example, he separates questions of validity, of obligation, of interpretation and of discharge; and questions of validity receive a further subdivision. The matter of assignment of debts is properly treated in a different part of the book, under personal property, but without confusing choses in action with tangible movables.

Excellent, also, as I have already indicated, are his analysis and presentation of the theories held by writers and courts. An unfortunate exception, however, must be noted in his statement of the theories regarding the validity of a foreign divorce, when only one of the parties was within the actual jurisdiction of the State granting the divorce (§§ 91 *et seq.*). In an earlier section he alludes to the theory that divorce is of the nature of a proceeding *in rem* (the *res*, of course, being the matrimonial relation), but he notes only the older English theory, that the law of the place where the marriage was contracted must be looked to in order to determine on what grounds the marriage may be dissolved. He nowhere indicates the existence of a theory that the competent court is the court of the matrimonial domicile, and that the husband's domicile is presumably the matrimonial domicile. He deals, indeed, in an earlier section, with the constructive domicile of the wife; and, in § 50, he discusses the question whether the wife can establish a separate domicile for divorce proceedings, but he states her power to do this without sufficient limitation. Consequently when, in § 92, he presents (without approving) the theory that "jurisdiction over one party confers jurisdiction over the other also," he gives no hint that a divorce granted to the husband in the State of the previous joint domicile is likely to be regarded in other States with more favor than a divorce granted to the wife in a State where she has established a separate residence. The reviewer submits that the theory which is tending to become dominant in the United States, as it is already dominant in England, and which is

sustained by the decisions of the United States Supreme Court, is that the wife cannot establish a separate domicile without good cause, and that in the absence of such separate domicile, a divorce granted to the husband by the court of his domicile, which is still constructively the matrimonial domicile, affects the wife, although no summons could be served upon her within the jurisdiction, and although she put in no answer.

The book is weakest on the constructive or synthetic side—in its attempt to formulate the principles which underlie the rules. Here the author's distinctions are often ill-advised and sometimes fantastic. For example: the theory which is rapidly gaining acceptance as regards personal property distinguishes between complexes of property that are to be regarded as entireties or estates, and single chattels; and teaches that personal estates are subject to the law of the domicile, but that movables, when they are not regarded as parts of an estate, are governed by the *lex rei sitæ*. For this distinction the author substitutes a distinction between involuntary and voluntary transfers, asserting that only involuntary transfers are governed by the *lex domicilii* (pages 270, *et seq.*). In order to bring testamentary succession under this category, he argues that while testation is a voluntary act, the testament takes effect only upon death, which is involuntary (pages 135, 136, 332). If this be true, the reviewer is moved to inquire (he hopes without undue frivolity) whether the law of the domicile would cease to govern in case the testator committed suicide. And it may be more seriously inquired why the author departs from his own principle as regards involuntary assignments in bankruptcy, and defends (against the English rule) the American practice of denying extraterritorial effect to the decree of the court of the domicile (§ 137). To say that *lex fori* governs is to beg the question, since the application of *lex fori* is the negation of the applicability of the rules of international private law.

As regards voluntary transfers he seems to maintain that *lex loci actus* ought to govern, but the cases show that this law is applied only when it happens to be either *lex domicilii* or *lex rei sitæ*. The tendency to apply *lex rei sitæ*, in cases of conflict, to transfers of single movables, whether the transfer be voluntary or involuntary, he explains as due to the fact that it is really *lex fori* (pp. 41 *et seq.*, 272 *et seq.*). This, however, is not true; the English courts, many of our State courts, and the United States Supreme Court, now recognize that an attachment or other transfer which is valid by the law of the site prevails over a prior assignment which is invalid by the law of the site, and this without regard to the question where the case is tried. It seems to the reviewer that the distinction between voluntary and involuntary transfers, employed as the author employs it, is unfortunate and bewildering; and that his identification of *lex rei sitæ* with *lex fori* as regards transfers of single movables is quite untenable.

If with his laudable desire to discover principles more fundamental than the English or American jurisprudence supplies, the

author had combined a greater familiarity with the writings of European continental jurists, he would doubtless have preferred some of their generalizations to his own. And he would hardly have said, as he does on page 1, in reference to a branch of the law that has had a continuous development since the eighth century and a rich literature since the fourteenth, that "only within the present century"—of course he means the nineteenth—"has any regular form been imparted to the subject." Nor would he have asserted in his preface, in such a manner as to suggest that it is his own discovery, "the fact that the great foundation and basic principle of private international law is SITUS," if he had been aware that this same basic principle was formulated with equal emphasis by Savigny in 1849.

To a person well versed in the subject, Professor Minor's book will be found interesting and suggestive, for the reasons set forth in the opening lines of this review. To a student approaching the subject for the first time it is likely to prove, in the special matters above instanced and in some others, confusing and misleading.

CASES ON PRIVATE INTERNATIONAL LAW.—By John W. Dwyer, Instructor of Law in the Department of Law of the University of Michigan. George Wahr, Ann Arbor, 1899. pp. viii, 509, ix.

A volume of 500 pages, printed in fairly large type, leaded, does not give room for cases covering any very extensive portion of the field of Conflict of Laws. The cases in Mr. Dwyer's compilation, however, are at least well selected—each apparently justifying its inclusion, either because of the intrinsic importance of the point decided, or because of the extent to which other decisions are reviewed and discussed.

ELEMENTS OF AMERICAN JURISPRUDENCE. By William C. Robinson, LL.D. Boston: Little, Brown & Co. 1900. pp. cviii, 401.

It is no hasty compilation, but the slowly ripened fruit of a long life of thought and experience, which the modest and distinguished scholar, whose name this volume bears, has here presented to us. For upwards of a generation one of the few men in the English-speaking world who have devoted themselves exclusively to the study and teaching of law, for many years a center of influence and authority in the Yale Law School and now the dean of the law faculty of the Catholic University of America at Washington, a profound student of other systems of law than our own, versed in the philosophy of the schoolmen whose doctrines have had such a curious influence on common law speculation, Professor Robinson has reached a position of authority which insures him expectant as well as respectful hearing. Nor is that expectation disappointed in the little work before us. To say that it is the most notable single contribution which our own country has yet made to the formal science of law would be to damn it with faint praise. It is not too much to say that it ranks easily with the systematic treatises of Holland,